

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Complaint of DSCI Corporation)	
For Declaratory Orders to Ensure)	Docket No. 05-28
Verizon Massachusetts' Compliance)	
With Resale Obligations with Respect)	
To Customer Specific Pricing Contracts)	

**OPPOSITION OF VERIZON MASSACHUSETTS TO DSCI'S
MOTION TO COMPEL DISCOVERY RESPONSES**

Introduction

Verizon Massachusetts ("Verizon MA") submits this opposition to DSCI's Motion to Compel responses to DSCI Requests 1-6 and 1-7 which DSCI propounded to Verizon on June 27, 2005.

On March 24, 2005, DSCI filed a complaint in this case seeking declaratory rulings concerning what DSCI claims are "unreasonable and unlawful practices" by Verizon MA "that have delayed and prevented," DSCI from reselling Verizon MA customer-specific pricing ("CSP") contracts and similar arrangements to DSCI end-user customers. DSCI Motion at 3. In addition, its Complaint and the Pre-filed Testimony of its witness, Sean Dandley, DSCI alleged that Verizon MA had failed to provide timely and complete response to its requests to resell particular agreements and requested a ruling from the Department that Verizon MA be required to provide "prompt, complete and documented responses to requests seeking to determine whether DSCI or other CLECs qualify for resale of a CSP."

Verizon MA's answer and responsive testimony show that there is no merit to DSCI's claims that Verizon MA's treatment of DSCI, or CLECs in general, with respect

to requests to resell CSPs or similar services is unreasonable or unlawful, and further, that DSCI's proposed timetable for making such arrangements available on a resale basis is unnecessary. At best, however, the issues raised in DSCI's Complaint and associated testimony are directed at Verizon's Wholesale organization, and have nothing to do with the process by which Verizon MA's Retail organization develops and provides retail pricing to its enterprise customers – a process that is completely different from that involved in allowing a CLEC to resell an existing CSP or similar arrangement. *See* Direct Testimony of Pamela McCann on Behalf of Verizon Massachusetts, Docket No. 05-28 (June 21, 2005), at 3-5. As Verizon MA stated in objecting to these requests, they seek information that is not relevant to the issues to be determined by the Department in this proceeding. Accordingly, the Department should deny DSCI's Motion to Compel.

The DSCI Request and Verizon MA Response to DSCI 1-6 reads as follows:

DSCI 1-6:

Please provide a detailed description of the process and associated maximum time frames applied to requests by Verizon Retail for approval of CSP pricing to an existing or new Verizon retail enterprise customer. If the time frames applicable to processing Retail CSP pricing requests differ from those in the Proposed CSP Process for resale of CSPs by CLECs, please explain the basis for such differences.

Verizon MA Response:

Verizon objects to this request on grounds that it seeks information that is irrelevant to the resolution of the issues before the Department in this case. The process and maximum time frames by which Verizon provides CSP pricing to its existing or new Enterprise customers is irrelevant as a predictor of the process that should apply to a CLEC request to resell an existing Verizon CSP, which, as discussed in the Pre-Filed Testimony of Pamela McCann (at pp. 3-5), requires coordination between Verizon's Retail and Wholesale organizations.

The DSCI Request and Verizon MA Response to DSCI 1-7 reads as follows:

DSCI 1-7:

Please provide a detailed description of the process and associated maximum time frames followed by Verizon Retail in seeking or responding to customer requests to extend, modify or terminate an existing CSP. If a Retail CSP subject to extension, modification or termination discussions is being resold to a CLEC, does Verizon intend to provide notice of the impending changes to the reselling CLEC. If so, please describe the nature of the proposed notices to the CLEC.

Verizon MA Response:

Verizon objects to this request on grounds that it seeks information that is irrelevant to the resolution of the issues before the Department in this case. The process and maximum time frames by which Verizon responds to a retail customer's request to extend or modify an existing Retail CSP is irrelevant as a predictor of the process that should apply to a CLEC request to resell an existing Verizon CSP, which, as discussed in the Pre-Filed Testimony of Pamela McCann (at pp. 3-5), requires greater coordination between Verizon's Retail and Wholesale organizations. Moreover, Verizon does not have a legal obligation to, nor does it intend to provide notice of discussions of extensions, modifications or terminations of retail CSPs.

Argument

DSCI 1-6:

Verizon MA's objection to DSCI 1-6 is appropriate for the reasons set forth in Verizon MA's response – the retail process information sought is irrelevant to the resolution of any issue before the Department in this case. First, DSCI 1-6, which seeks, among other things “a detailed description of the process and associated maximum time frames applied to requests by Verizon Retail for approval of CSP pricing to an existing or new Verizon retail enterprise customer” seeks information that, even if provided, would not assist the Department in its determination of whether Verizon MA's conduct at issue in this proceeding was unreasonable or unlawful as DSCI alleges. DSCI 1-6 seeks information from Verizon MA regarding the process by which Verizon MA develops and

delivers *price quotes* to its retail enterprise business customers. DSCI contends it needs this information to compare that retail process to Verizon MA's proposed wholesale process for CLEC CSP resale approvals. DSCI Motion at 4. But DSCI's argument on this point erroneously suggests that there is some requirement, legal or otherwise, that Verizon MA issue price quotes to its enterprise business customers on a time table comparable to that within which Verizon MA makes CSPs available for resale under the Section 252 of the Telecommunications Act of 1996, 47 U.S.C. §§ 101, *et seq.* (1996) ("1996 Act"), or that state law imposes such a requirement. There is no such requirement.

Moreover, even if there were, the comparison contemplated by DSCI would be a false one. Any process Verizon MA uses to develop and deliver a price quote to its retail enterprise customers (which may or may not result in subsequent negotiations and the creation of a CSP and associated executed contract in any particular case) has no relationship to the reasonableness or lawfulness of the process Verizon MA uses to make existing CSPs available for resale by CLECs. As discussed in the Direct Testimony of Pamela McCann (at 3-5), this latter process requires coordination between Verizon's Retail and Wholesale organizations. In addition, this latter process also requires coordination between Verizon MA and the CLEC that seeks to resell a CSP, which itself may introduce delays into this wholesale process that are not within Verizon MA's control.

For the same reasons, DSCI's suggestion that obtaining information regarding Verizon MA's internal process for approving pricing for its retail enterprise customers is necessary "to ensure that Verizon is not providing itself with unreasonably favorable

treatment, in violation of federal and state nondiscrimination law” is also unfounded. *See* DSCI Motion at 4. The principal issue before the Department is whether Verizon MA has reasonably and lawfully permitted CLECs, and in particular DSCI, to resell currently-effective CSPs, and not how quickly Verizon MA can issue a price quote to its retail enterprise customers. The Department should deny DSCI’s motion to compel Verizon MA to provide a further response to DSCI 1-6.

DSCI 1-7

Verizon MA’s objection to DSCI 1-7 is appropriate for the reasons set forth in Verizon MA’s response – the retail process information sought by DSCI is irrelevant to the resolution of any issue before the Department in this case. In particular, the processes Verizon MA employs when a Verizon Retail customer seeks to “extend, modify or terminate” an existing resold CSP is not relevant to the issue of whether Verizon MA has reasonably and lawfully permitted DSCI to resell the CSPs it has sought to resell or, more generally, whether Verizon MA’s existing or proposed wholesale processes are reasonable and consistent with its legal obligations.

Moreover, DSCI’s arguments made in support of its Motion to Compel this information do not provide such support, but instead consist of substantive arguments aimed at imposing an obligation on Verizon MA that is not currently required by state or federal law. To the extent that DSCI inquires in DSCI 1-7 whether Verizon intends to “provide notice of ... impending changes” to CLECs reselling Verizon MA’s CSPs, Verizon MA has already made it clear in its response that it does not intend to provide such notice. When Verizon MA receives a request from a retail enterprise customer to make a substantive change to a CSP, it files a new CSP with the Department pursuant to

Tariff DTE No. 12. That CSP is therefore publicly accessible to DSCI (as it is to all CLECs) and available to be resold in accordance with Section 252 of the 1996 Act. The Department should deny DSCI's motion to the extent it seeks further response to DSCI 1-7.

Conclusion

For all of the foregoing reasons, the Department should deny DSCI's motion seeking to compel Verizon MA to provide further responses to interrogatories DSCI 1-6 and DSCI 1-7.

Respectfully submitted,

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